

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

02-CR-6087L

v.

MARK CANADY,

Defendant.

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This Court entered a sua sponte order on February 1, 2008, that defendant may be eligible for reduction of a previously imposed sentence, pursuant to 18 U.S.C. § 3582(c), because of a change in the Sentencing Guidelines (“Guidelines”) which lowered the base offense levels applicable to cocaine base. Defense counsel, the Government and the Probation Office have provided the Court with information on the relevant issues. Defendant’s original sentence of imprisonment was 82 months. The parties have agreed that the defendant’s recalculated guideline range is 60 to 71 months. This Court finds this to be the correct recalculated guideline range.

Having considered the defendant’s motion, the parties’ sentencing submissions, and the relevant factors set forth in 18 U.S.C. § 3553(a), this Court finds that the defendant’s sentence should be reduced under 18 U.S.C. § 3582(c)(2) and U.S.S.G. § 1B1.10, as amended, and that a

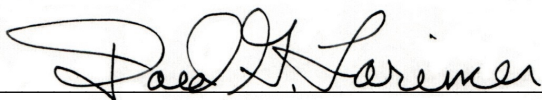
reduction in the defendant's sentence is consistent with the applicable policy statements issued by the United States Sentencing Commission. *See* 18 U.S.C. § 3582(c)(2). Moreover, this Court finds that the defendant's post-sentencing conduct warrants this reduction, and that the defendant does not pose an unreasonable danger to any individual or the community. *See* Application Note 1(B) of U.S.S.G. § 1B1.10, as amended. Consequently, this Court will grant the defendant's Motion to Modify Sentence and reduce the defendant's original term of imprisonment to 71 months.

ORDERED that the defendant's original term of imprisonment is reduced to 71 months. All other terms and provisions of the original sentence remain in effect; and it is further

ORDERED, that the United States Probation Office is DIRECTED to prepare and to provide to this Court for its signature an Amended Judgment and Conviction reflecting this sentence reduction within **two days** of the filing date of this Decision and Order. All other terms and provisions of the original Judgment and Conviction remain in effect; and it is further

ORDERED, that the Clerk of the Court shall close this case upon the filing of the Amended Judgment and Conviction.

IT IS SO ORDERED.

  
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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
March 25, 2008.